



April 18, 2019

VIA HAND DELIVERY

Honorable Athneil J. Thomas, Chair
Committee on Government Operations, Consumers & Veterans Affairs
33rd Legislature of the Virgin Islands
Capitol Building
St. Thomas, U.S. Virgin Islands 00802

RE: Opposition to Bill No. 33-0055, amending Virgin Island Code pertaining to the Public Service Commission regulating wireless telecommunications

Dear Chairman Thomas:

On behalf of CTIA, the trade association for the wireless communications industry, and its members, AT&T, Sprint and T-Mobile who provide service in the United States Virgin Islands, I am writing to express strong opposition to Bill No. 33-0055, which would provide for the regulation of telecommunications services, including mobile telecommunications service by the U.S. Virgin Islands Public Services Commission ("PSC"). This bill is unnecessary and contrary to the direction in public policy that 38 states and the District of Columbia, have already taken by preempting public service and utility commissions from regulating wireless providers. Additionally, the Federal Communications Commission has exclusive jurisdiction over wireless rates and entry and already regulates wireless service providers.¹

Most recently Rhode Island became the 38th state to follow this public policy path when then Governor Lincoln Chafee signed the "Wireless Telephone Regulatory Modernization Act" on June 24, 2013. As Rhode Island recognized when it passed the Act and preempted their state public utility commission from regulating wireless, "the [wireless] market in the state is vibrant and competition has helped determine reasonable rates and service quality."² The U.S. Virgin Islands has a very competitive mobile marketplace, and its

¹ 47 U.S.C. § 332(c)(3).

² Alex Kuffner, *R.I. Legislature Considers Removing Wireless Companies from State Regulation*, Providence Journal, Jun. 13, 2013, available at:



consumers are best serviced by allowing wireless providers to continue to operate within a national regulatory framework overseen by the Federal Communications Commission – not revisiting a decision already made that would provide further regulation by the PSC.

The wireless industry's competitive nature has spurred rapid wireless development that has witnessed a growth of subscribers to over 400 million nationally and over 157,400 subscriber connections in the U.S. Virgin Islands, more wireless connections than people in the U.S. Virgin Islands.³ This rapid development was ushered in by Congress' decision in 1993 to create a national regulatory framework for wireless. This national framework allowed wireless providers to offer innovative service options, which significantly lowered the cost of services and provided more consumers with greater access to wireless. Bill No. 33-0055 would threaten this national framework and its resulting benefits and could limit consumer choice and increase consumer costs in the Territory.

Since 2003, CTIA's Consumer Code for Wireless Service has been an integral part of delivering superior customer service to wireless consumers. The Code – which is followed throughout the United States, including the U.S. Virgin Islands – has helped consumers make informed decisions when selecting a wireless plan and has contributed to the continued competitiveness within the wireless industry. Wireless carriers that are signatories to the Code have committed to promptly respond to consumer inquiries and complaints received from government agencies such as the Virgin Islands Department of Licensing and Consumer Affairs, which the wireless industry has been working cooperatively with on resolving consumer complaints for years and most recently in the wake of Hurricanes Irma and Maria.

The Code affords wireless providers the flexibility to respond to changes in consumer demand. CTIA and its member companies regularly review the Code to ensure it reflects the ever-changing wireless marketplace. For example, a twelfth point was added in December 2013 to include standards regarding the ability of customers, former customers and individual owners of eligible devices to unlock phones and tablets. Additionally, an eleventh point was added in October 2011 that calls for providers to send postpaid customers free notifications for voice, data and messaging usage, and international

<http://www.providencejournal.com/business/content/20130613-r.i.-legislature-considers-removing-wireless-companies-from-state-regulation.ece> (last visited April 16, 2019).

³ 157,400 subscriber connections as of YE2018 according to Ovum WCIS+ subscription database (accessed April 15, 2019). The World Bank indicates the population of the islands is around 107,270 <https://data.worldbank.org/indicator/SP.POP.TOTL> (accessed April 16, 2019).



roaming alerts to help them avoid unexpected overage charges. This has been particularly important to U.S. Virgin Island consumers on the north shore of St. John and St. Thomas who have been subject to roaming charges from the British Virgin Islands. These efforts are just some examples of the wireless industry's responsiveness to consumer issues without the need for prescriptive legislation. The wireless industry continues make changes to its customer facing policies to remain competitive in the marketplace. The Code also affords wireless providers the flexibility to respond to changes in consumer demand.

Additionally, having a reliable network and quickly responding to service interruptions are necessities in the competitive wireless ecosystem. If a carrier's network is down while its competitors' networks are operating, that carrier will suffer reputational harm and will likely lose subscribers. As such, wireless carriers are incentivized to ensure that their networks are as resilient as possible and they have disaster recovery plans in place to immediately deal with outages.

The wireless industry understands the need to promote continuity of service and network resiliency is part of this. Wireless carriers have implemented several strategies to address network reliability. Carriers have built redundant networks where appropriate. Overlapping cell sites allow for rerouting of traffic and enable networks to continue operating even if a single site goes down. Carriers also deploy portable cell sites to increase network capacity when needed. Carriers also use cellular base stations on wheels (COWs), cellular base stations on light trucks (COLTs) as well as other portable equipment, including antennas, generators, switching gear and air conditioning units, in storm impacted and disaster areas. These were particularly helpful in the U.S. Virgin Islands after the recent hurricanes.⁴

Recently, CTIA, along with its members, utilizing the experience gained in addressing the devastation of Hurricanes Irma and Maria, released "Best Practices for Enhancing Emergency and Disaster Preparedness and Restoration," which are designed to help maintain wireless service during hurricanes and other natural disasters.⁵ The initiative will enhance coordination between wireless carriers and local governments in preparing for a

⁴ <https://www.ctia.org/news/the-wireless-industry-responds-to-a-historic-hurricane-season> (accessed April 16, 2019).

⁵ <https://api.ctia.org/docs/default-source/default-document-library/best-practices-for-enhancing-emergency-and-disaster-preparedness-and-restoration.pdf> (accessed April 16, 2019).



natural disaster or emergency and speed the restoration of wireless services in the wake of such events.

CTIA and its member companies oppose Bill No. 33-0055 as it threatens the national regulatory framework for wireless providers that has served the people of the U.S. Virgin Islands well. Deviating from a uniform national regulatory framework could result in a patchwork of wireless regulatory regimes that would be unduly burdensome and costly for wireless carriers to implement on an area-by-area basis and would potentially increase costs to Virgin Islands consumers, limit consumer choice and stifle innovation and investment in the Territory's telecommunications infrastructure in a market that is heavily dependent on it with both locals and visitors. With the continued growth in the wireless industry and the benefits it offers U.S. Virgin Islands' consumers we respectfully urge the members of the Thirty Third Legislature's Committee on Government Operations, Consumers and Veterans Affairs not to pass Bill No. 33-0055.

Respectfully submitted,

Lisa V. McCabe
Director, State Legislative Affairs

cc: Members, Committee on Government Operations
Consumers and Veterans Affairs